

DOCKET FILE COPY ORIGINAL ORIGINAL

BEFORE THE

Federal Communications Commission

RECEIVED

WASHINGTON, D.C. 20554

JUL - 3 2002

In the Matter of:

Application of
ALEE CELLULAR COMMUNICATIONS

WT Docket No. 02-28

For Authorization to Construct
Nonwireline Cellular System in
Texas RSA 21 Market 672A

File No. 11025-CL-P-672-A-89

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**CORRESPONDENCE
FILE**

**ANSWERS OF MILLER COMMUNICATIONS, INC.
TO ALEE CELLULAR COMMUNICATIONS' INTERROGATORIES**

Miller Communications, Inc. submits these Answers to the Alee Cellular Communications' Interrogatories served upon it by the Applicant in the Captioned case. Counsel for Alee and Miller were able to reach accommodation on some issues.

Each interrogatory is restated with the answer following the restated interrogatory.

Answers to Interrogatories

- 1. Identify Miller's form of business organization, i.e. corporation, partnership, LLC.**

Miller, by counsel, objects to this interrogatory as it is irrelevant to the Application of Alee Cellular Communications which is the subject of this proceeding.

- 2. Identify the state of incorporation or organization and the date of incorporation or organization.**

Miller, by counsel, objects to this interrogatory as it is irrelevant to the Application of Alee Cellular Communications which is the subject of this proceeding.

No. of Copies rec'd
List ABCDE

0+4

3. **Please provide your current principal business address.**

Miller, by counsel, objects to this interrogatory as it is irrelevant to the Application of Alee Cellular Communications which is the subject of this proceeding.

4. **Please identify all equity holders of Miller.**

Miller, by counsel, objects to this interrogatory as it is irrelevant to the Application of Alee Cellular Communications which is the subject of this proceeding.

5. **Identify Miller's officers and directors.**

Miller, by counsel, objects to this interrogatory as it is irrelevant to the Application of Alee Cellular Communications which is the subject of this proceeding.

6. **Does Miller h any FCC licenses? If so, identify by giving call sign, service and locations of facilities.**

Miller, by counsel, objects to this interrogatory as it is irrelevant to the Application of Alee Cellular Communications which is the subject of this proceeding.

7. **Has Miller held any licenses in the past? If so, identify by giving call sign, service, location of facilities and disposition (*i.e.*, sale or termination of license).**

Miller, by counsel, objects to this interrogatory as it is irrelevant to the Application of Alee Cellular Communications which is the subject of this proceeding.

8. **Identify all documents in your possession, other than those produced by Alee as part of the document production in this case, relevant to the issues specified in this case.**

The interrogatory is objected in its entirety as so hopelessly broad as to be meaningless. Alee and Miller clearly have different notions about what is relevant to the issues specified. In any case, an interrogatory which asks for "all relevant documents" gives no guidance whatsoever as to what Alee is asking for. Interestingly, this interrogatory is exponentially broader than several of the document requests which Alee itself objected to as overly broad. Without waiving this objection, and with the agreement of Alee, Miller indicates that it has no documents in its possession related to this case other than those produced by Alee in this proceeding or filed by Alee at the Commission.

9. **Identify any persons contacted by Miller with knowledge concerning Alee's operation of its New Mexico 3 cellular facilities.**

No such persons contacted.

10. **Did Miller Communications, Inc. participate in the Algreg proceeding?**

Yes

11. **In particular, did Miller Communications urge that the lack of candor findings were sufficient to support revocation of the New Mexico 3 license? If not, what was Miller's position?**

Objection. Whatever Miller urged in the *Algreg* proceeding is irrelevant to Alee's qualifications here. What is important is what the Commission concluded. Moreover, Miller's position in the *Algreg* case is a matter of record and was provided to Alee in connection with those proceedings.

12. **Did Miller Communications, Inc. enter into a settlement agreement with Alee in the Algreg proceeding in which Miller for promise of payment of money dismissed all pleadings and agreed to further opposed Alee in connection with its New Mexico 3 license.**

Objection. Whether Miller reached a settlement with Alee in the *Algreg* proceeding is irrelevant to Alee's qualifications here. Moreover, the proceedings in the *Algreg* case are a matter of record and Alee would have been a party to any such agreement. In any case, in the *Algreg* proceeding, Miller and the other petitioners were originally seeking to have the unlawful colluders like Alee dismissed so that a new, untainted lottery could be held with a fair chance to win. When the lottery rules were discarded midway through the proceeding, the basis for petitioners' continued participation evaporated. Here, by contrast, Miller seeks to have an opportunity to bid fairly on the license at issue as one of the original timely applicants for the license which Alee won in the lottery.

13. **In light of the position taken by Miller in the *Algreg* proceeding settlement, what, if anything, has transpired since 1997 that supports denial of the Texas 21 application?**

Objection. The position taken by Miller in the *Algreg* settlement is irrelevant to the present case. Miller proved to the satisfaction of the Commission and the courts that Alee was unqualified to hold a Commission license. That conclusion is prima facie proof of Alee's lack of qualifications to hold the Texas 21 license.

14. **Is there any agreement with Ranger Cellular in connection with its participation in the instant proceeding? If so, identify the agreement and describe its terms.**

Objection. This interrogatory has no conceivable relevance to whether Alee is qualified to be an FCC licensee and cannot possibly lead to admissible evidence. By agreement with counsel for Alee this interrogatory may not be responded to.

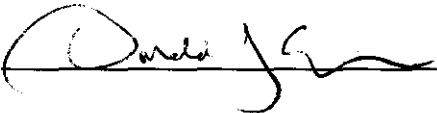
15. **In the Order In the Matter of Certain Cellular Rural Service Area Applications, FCC 02-129, released May 9, 2002, the Commission denied Miller's Petition for Reconsideration of the dismissal by the Wireless Telecommunications Bureau if cellular lottery applications in eight markets including Texas RSA 21. Has that decision been stayed. Has Miller sought further review of that decision? If so, identify the action taken, the date taken and where filed. (i.e. FCC or court).**

The action by the Commission has not been stayed. Miller has sought review of the decision at the D.C Circuit Court of Appeals by filing a notice of appeal on May 20, 2002.

16. **Identify the person(s) or document(s) relied upon by you in determining the substance of each of your answers.**

We relied upon our FCC counsel, Donald J. Evans.

Respectfully submitted,
MILLER COMMUNICATIONS, INC.

by: 

Donald J. Evans
Raymond J. Quianzon
Its Attorneys
FLETCHER, HEALD & HILDRETH, P.L.C.
Eleventh Floor
1300 North Seventeenth Street
Arlington, Virginia 22209

telephone (703) 812-0400
telecopier (703) 812-0486

Dated: July 3, 2002

DECLARATION

The undersigned, Larry J. Waldrep, an officer of Miller Communications, Inc., under penalty of perjury, states that the foregoing Answers to Interrogatories are true and correct to the best of the undersigned's knowledge.

A handwritten signature in dark ink, appearing to read "Larry J. Waldrep, President", is written over a horizontal line.

Dated: July 1, 2002

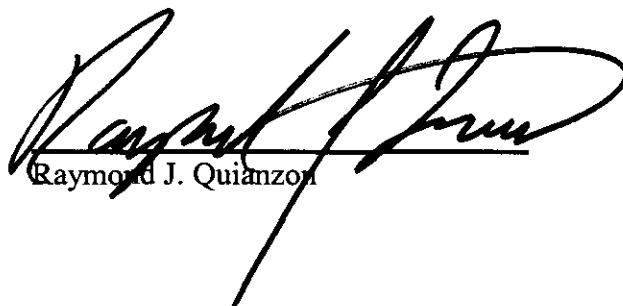
CERTIFICATE OF SERVICE

I, Raymond J. Quianzon, an attorney with the law office of Fletcher, Heald & Hildreth, P.L.C., do hereby certify that on the 3rd day of July, 2002, a true and correct copy of the above and foregoing ANSWERS OF MILLER COMMUNICATIONS, INC. TO ALEE CELLULAR COMMUNICATIONS' INTERROGATORIES was sent to the following individuals via postage pre-paid first class United States Mail and also in the manner indicated below:

The Honorable Arthur I. Steinberg *
Administrative Law Judge
Federal Communications Commission
The Portals
445 Twelfth Street, Southwest
Washington, D.C. 20554

Judy A. Lancaster, Esquire[†]
Gilberto DeJesus, Esquire[†]
Investigations and Hearings Division
Enforcement Bureau
Federal Communications Commission
The Portals
445 Twelfth Street, Southwest
Washington, D.C. 20554

David L. Hill, Esquire[‡]
Audrey P. Rasmussen, Esquire[‡]
Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.
Suite 700, North Building
1120 Twentieth Street, Northwest
Washington, D.C. 20036


Raymond J. Quianzon

* - sent via electronic mail

† - sent via electronic mail and hand delivery

‡ - sent via electronic mail and telecopier